

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 4:20-cr-288-DPM-1

MUJERA BENJAMIN LUNG' AHO

DEFENDANT

ORDER

1. Lung'aho appeals Magistrate Judge Harris's denial of his second motion for release from custody. No hearing is needed. This Court has considered the testimony offered at the 10 August 2021 and 8 November 2022 hearings as well as the parties' papers. On *de novo* review, this Court affirms. 18 U.S.C. § 3145; *United States v. Maull*, 773 F.2d 1479, 1481-82 (8th Cir. 1985).

2. Lung'aho was detained because of how he behaved while on pre-trial release. Magistrate Judge Harris found by clear and convincing evidence that he was unlikely to abide by any condition or combination of conditions, and this Court affirmed her decision to revoke. *Doc. 130 & 160*. Under these circumstances, the dismissal of three counts in the Superseding Indictment does not have a material bearing on the relevant question: whether Lung'aho is unlikely to abide by any condition or combination of conditions. This Court agrees with the decision to not reopen his detention hearing. 18 U.S.C. § 3142(f)(2).

3. Lung'aho also argues that his continued detention violates due process. Eighteen months is a long time, and trial cannot be held until the Eighth Circuit rules on the government's interlocutory appeal. But the time Lung'aho has spent in detention isn't the result of any "intentional, unwarranted delay by the prosecution." *United States v. Briggs*, 697 F.3d 98, 102 (2d Cir. 2012). And the evidence against him appears to be strong. Indeed, all four of his co-defendants have already pleaded guilty. All material things considered, the length of time he has spent in pre-trial detention does not violate his due process rights. *See Briggs*, 697 F.3d at 101-04; *Doc. 101 in United States v. Justin William Thabit*, Case No. 4:19-cr-677-DPM (E.D. Ark. 20 May 2022).

* * *

Magistrate Judge Harris's Order, *Doc. 265*, is affirmed; and Lung'aho's appeal, *Doc. 268*, is denied.

So Ordered.

W.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

8 February 2023